Pitting devils, democracy, and "executive aggrandizement"

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Dr. Jesus Trump – 13 April 2026

In a democracy, the risk is that the governed get represented…
In the same way that chickens can fly, humans can behave rationally.
When it suits them, in spurts.

~ Bianco Luno

...the problem of setting up a state can be solved
even by a nation of devils

~ Immanuel Kant[1]

This is not a current events discussion group, but nearly all the topics we cover can be related to present concerns. Not too far beneath usually lurk perennial unresolved problems. One of them is behind the headlines: *how should human communities be governed and what stands in the way?* The word for a long time now in political philosophy is that governance should be democratic…

But why do democracies eventually produce autocrats? As Plato noted 2400 years ago.[2]

We covered the topic of executive aggrandizement seven years ago. We are revisiting it to see what is still true, truer than ever, or may have changed.[3] This will be a review in preparation for

1. Provided institutions pit the devils against each other. Kant writes, "And as far as reason is concerned, the result is the same as if man's selfish tendencies were non-existent, so that man, even if he is not morally good in himself, is nevertheless compelled to be a good citizen. As hard as it may sound, the problem of setting up a state can be solved even by a nation of devils (so long as they possess understanding). It may be stated as follows: 'In order to organise a group of rational beings who together require universal laws for their survival, but of whom each separate individual is secretly inclined to exempt himself from them, the constitution must be so designed that, although the citizens are opposed to one another in their private attitudes, these opposing views may inhibit one another in such a way that the public conduct of the citizens will be the same as if they did not have such evil attitudes.' A problem of this kind must be soluble. For such a task does not involve the moral improvement of man; it only means finding out how the mechanism of nature can be applied to men in such a manner that the antagonism of their hostile attitudes will make them compel one another to submit to coercive laws, thereby producing a condition of peace within which the laws can be enforced." *Perpetual Peace: A Philosophical Sketch*, (1795), First Supplement: On the Guarantee of Perpetual Peace, Section 1. The older Hastie translation is online here. This translation is from *Kant: Political Writings*, edited by H. S. Reiss, Cambridge University Press, 1991. Kant was an idealist and had great faith in the human capability to behave rationally, but his eyes were open to the reality of humans as we find them. Despite this, he sought a scheme engineered to make possible peaceful order among them.
2. "Why Democracy Rewards Idiots —Plato Saw It Coming 2,400 Years Ago," *Philosophy Coded*, (video).
3. The original 2019 writeup "Pitting devils, democracy, and 'executive aggrandizement'."

an upcoming examination of what may be done about it… Before we propose solutions, we should be clear about the problem. I submit we are *not at all clear* about the problem and haven't been for a long time.

The problem, we will argue, is with how democracy is implemented, specifically what is wrong with "*electoral representative* democracy," especially, the "electoral" part, but also the "representative" part. We will try to make the case that, despite Plato's legitimate complaints, democracy in some form is *morally* defensible, but that it cannot work today at scale via "elections." And it is hard to see how "representation," in some form, could be avoided practically at scale. But must it take electoral form? Is there another way?

Well before the 2016 election, political scientist Nancy Berneo put her finger on the problem:

> **Executive aggrandizement.** Executive aggrandizement contrasts with all forms of coupmaking in that it takes place without executive replacement and at a slower pace. This more common form of [democratic] backsliding occurs when elected executives weaken checks on executive power one by one, undertaking a series of institutional changes that hamper the power of opposition forces to challenge executive preferences. The disassembling of institutions that might challenge the executive is done through legal channels, often using newly elected constitutional assemblies or referenda. Existing courts or legislatures may also be used, in cases where supporters of the executive gain majority control of such bodies. Indeed, the defining feature of executive aggrandizement is that institutional change is either put to some sort of vote or legally decreed by a freely elected official—meaning that the change can be framed as having resulted from a democratic mandate.[4]

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In a CNN interview with Jake Tapper, Stephen Miller, one of President Trump's top advisors said, "We live in a world, in the real world, Jake, that is governed by strength, that is governed by force, that is governed by power… These are the iron laws of the world that have existed since the beginning of time."

Thrasymachus, near the beginning of Plato's *Republic*, reminds us that justice just is what serves the stronger, and, a little later, that justice is what serves the state – the state, by design, being the stronger.[5] Put these stipulations together and you get Stephen Miller's claim.

The good news (such as it is), according to Nancy Bermeo, is that "...there has been a marked

4. From "On Democratic Backsliding," Nancy Bermeo, *Journal of Democracy*, 27 (January 2016), pp. 10-11. The problem in general was noted by the framers of the U. S. Constitution. James Madison, in particular, expressed serious reservations about the expansion of executive power in the Federalist 51 (1788).
5. Stephen Everson translates Thrasymachus' claims more precisely: "justice is nothing other than the advantage of the stronger" and "justice is the same in all cities, the advantage of the established rule" (338e6–339a2). "Thrasymachus on Justice, Rulers, and Laws in Republic I," *Journal of Ancient Philosophy* (2020). pp. 76-98.

decrease in the length of time that a country with a toppled democracy stays autocratic. Moreover, the dictatorships that follow failed democracies today are, on average, less authoritarian than their predecessors." What does this mean? That we, though we keep making the same mistakes in framing our democracies, are starting to notice our mistakes sooner? Before repeating our folly? Or that our tyrants are becoming less tyrannical with each iteration?[6]

The accretion of power in the executive at the expense of other branches of a "democratic" state is what eminent political scientist Nancy Bermeo means by "executive aggrandizement." It was a manifest trend for some years before our "bigliest best president in the history of forever"[7] was elected. The conditions making for this eventuality were noted brewing decades earlier. But the seeds for those conditions go back to the first occurrence of an "electoral representative democracy." The problem will far outlast the term of the current occupant of the White House.[8]

The problem in a nutshell: we have been habituated to seeing "elections" as essential to, even definitive of, democracy. *They aren't and can't be.* At best, elections are *one* among several ways to help keep concentrations of power at bay. By themselves, however, they are ineffective. (Plato guessed as much.) *They can't be because there is nothing magical about a crowd of idiots that would make their decisions wiser than those of a single idiot.* Whatever "wisdom" the masses are sometimes credited with having is canceled out by the proportionate magnitude of their error.

This is not to say that democracy is wrongheaded or doomed... or maybe it is, but it is at least *conceivable* it might not be. Whether or not any true democracy will ever perdure indefinitely is an empirical question, not a philosophical one. (But gloom is a professional liability of historians, the empiricists in these matters, and recent striking evidence turned up by political scientists is not cheering.) Nevertheless, whatever may be true about that, there are cogent *moral* arguments for why something like democracy is, indeed, *the ideal* form government takes for humans, given their character and capabilities. There are good reasons for why we *ought* to strive to have a democracy if at all possible. There are, indeed, good arguments for why democracy is the better of the logical alternatives for managing power in human communities. I will rehearse these shortly.

But the realities that stand in the way of any such ideal ever manifesting are much more imposing than what most school children in ostensible "democracies" are taught and continue to believe as adults throughout their lives. The governed in democracies are taught to "vote" as though their collective votes would cast a spell over the powers that be, causing the latter to look favorably on the governed and their interests. It doesn't work that way, political scientists and philosophers have been trying to tell us so for a long time. *Electoral* democracy is often painted as synonymous with democracy. It is not. Why not?

In a previous topic, we explored an *economic* argument against the primacy of "elections" as a

6. Because they emerge from among us and maybe we, collectively, are evolving, gradually, into a better species of people, as suggested by Steven Pinker: more enlightened so that even the worst of us are still better than the worst were centuries ago?
7. As someone on Reddit glossed him.
8. For example, as Daniel Ziblatt comments in the Yale video conference in Resources below.

viable safeguard of the ideal of democracy. In this writeup, we focus on the *moral/political* aspect of the problem in preparation for an upcoming detailed exploration of a contemporary scheme to address it.

What is democracy?

It seems easier to say what it is not. It is *not* autocracy and *not* oligarchy (or plutocracy, the economic variant of oligarchy). Is it then rule by all those who are subject to the laws and policies of a government? "Rule by the governed, of the governed, for the governed?" No. That has never existed anywhere outside of a community of about the size of an extended family, a tribe, and even there rare. It would mean children, animals, the mentally ill or deficient, felons, non-citizen visitors (legal or illegal), ecosystems, etc. – or their "representatives" – would have a say — as they are all *subject* to the rule of a democratic government conceived of in this way.[9] So, then democracies, no less than autocracies and oligarchies, *pick and choose* who is and is not eligible to participate in government. The full set of the *pre-screened* governed pick and choose who will represent them. These chosen, in turn, determine institutions, laws, and policies that will subject the full class of the governed. The classes in the U.S. ranked by size are (confining ourselves, for now, to "persons"):

1. the governed, currently about 329 million,[10]
2. the eligible selectors from among the governed, *i.e.*, the voters, 212 million,[11] and
3. the representatives of the latter (not the former): just under 8,000.[12]

Just over .0025% of the governed people in the U. S., the representatives, make the laws that subject all things and people with a presence within the political geography of the country. *This tiny subset of the governed rule the full class of the governed in the U.S.* This is *representative* democracy as we know it.

It's called "*electoral representative democracy.*" All three terms in this designation are conceptually troublesome. What precisely does each mean? In the history of ideas, *representation* has two notable and distinct connotations. We refer to them as *proxy* and *descriptive*. Proxy is the more familiar one in political contexts (undeservedly so, we will argue), so it is the one under scrutiny here.[13] It works like this: You may *represen*t me in some political or legal procedure if there are institutions in place wherein I voluntarily authorize you to stand in for me in some matter because I—*hope, believe, or have faith*—that you will act in accordance with my interests and values—in short, because I *trust* you. Thus, we elect lawmakers to do

9. Perhaps all these classes *should* have a say. We leave the *range* of political voice or franchise for another topic. Here we will accept the assumption that *some* level of rational autonomy is requisite, since we are so far from realizing even that bar.
10. According to https://www.worldometers.info/world-population/us-population/.
11. Estimate as of 2016.
12. There are a total of 7920 *elected* lawmakers in the U.S. The number is comprised of 537 at the federal level (= 525 in Congress, president and vice-president) and all those in state governments total: 7383 (as of 2019).
13. But see our writeup "Democracy and its discontents: an alternative to elections" which makes the case that it is the *other* sense of "representation," the *descriptive* (more familiar in scientific practice), that merits a serious look as an alternative.

things government-wise aligned with our bidding. There are procedures in place to retract that authorization, but not at will, only within a *deliberately* complex framework or protocol, for example, at the end of a predefined term and a new election and all that this *entails*. And the entailment is highly underestimated, as we shall see. The framework is designed to counteract human velleity and insure stability, an important desiderata in the management of large groups. In this way, the electoral process seeks to hold representative lawmakers accountable for their actions.

But notice the *hope/belief/faith* gap in electoral accountability (or "vertical" accountability, as political scientists[14] refer to it). You take a chance when you vote. A lot may happen in the time between when others acquire unfettered power over you and the time you call them on it (if you are even lucky enough to have functioning checking procedures in place). If elections were the only form of accountability, democracy would have vanished long ago.

What else can you hold over the heads of the devils vying to do your bidding?

According to Bermeo, "...democracy is 'a collage' of institutions crafted and recrafted by different actors at different times. *It is put together piece by piece, and can be taken apart the same way."*[15] *(Emphasis added.)*

We need a variety of institutional checks invested with different kinds of power and with different interests and resources to check our *elected* representatives. *Our vote alone is not even close to sufficient.* We need institutions like:

1. *documents* (constitutions, bills of rights, etc.) to state governing principles and remind all involved of their roles and limitations;
2. an *independent judiciary* of legal authorities to interpret those documents;
3. elected, but loyal, *opposition(s)* ready to make life hard for any party or branch of government which attempts to arrogate power in circumvention of adjudicated laws or policies inline with the prior two checks on this list (especially liable here is the executive branch, which has a well-documented history of overreach);
4. career *professionals* chosen for their qualifications, expertise, and experience in the management of government law and policy—*not* chosen for their pandering skills as standard elected officials too often are;
5. an *unfettered media* of non-governmental observers and watchdogs to alert the governed of what their government is up to;
6. outside, relatively disinterested, *academic expertise* with the resources to probe,

14. "Executive Aggrandizement in Established Democracies: A Crisis of Liberal Democratic Constitutionalism," Tarunabh Khaitan, *International Journal of Constitutional Law*, (2019 Forthcoming). This review essay of a newly published collection of papers on the topic (*Constitutional Democracy in Crisis?* By Mark A. Graber, Sanford Levinson, Mark Tushnet, eds. Oxford University Press, 2018) and an interview with Khaitan at Philosophy 24/7 were the catalysts for this topic.
15. Bermeo, *op.cit.*, p. 14. Gerrymandering, economic inequality and desperation, poor education, nation-specific structures like the electoral college or Supreme Court-packing, etc. are all open invitations to take democracy apart piece by piece. See also Carolyn Coberly's short video on "Democratic backsliding".

investigate in greater depth than typical media, and critically assess and authoritatively report on governmental behavior;
7. widely *shared undocumented norms* that undergird democratic practice, e.g., though the law allows it, *not* packing the courts or, though the law allows it, *not* gerrymandering districts or, though the law allows it, *not* permitting unjustifiable economic inequality, etc.;
8. and finally—and *most critically*—in a democracy, a sufficiently *educated and engaged demos:* the governed must, in the last analysis, have the willingness and critical ability to monitor all the above.[16]

Otherwise, Plato was right to divine that democracy is just a phase preparatory to autocracy.

There are reasons to believe that in many "electoral representative democracies," even those highly developed and economically well off (likely *especially* these), these checks are either not all present, have never fully developed, or have been allowed to erode significantly. The U.S. is one such country.

Again, the executive, far more often than the legislative or judiciary, has historically been the branch of democratic governments most prone to failing to keep to its lane. Power possessed is nine-tenths of the law. To paraphrase Socrates' adversary in the opening pages of *The Republic*, Thrasymachus: *if I've got the power, justice is what I say it is.* Good governance was then, and still, is up against that sentiment.

And note that of the eight items on the list of possible checks only one, the third, involves any form of "elections" or "voting." Voting, in case you haven't figured it out by now, is highly overrated as a tool of democratic accountability.

Suppose your elected representatives betray your trust? In the old days, brute force was the preferred method to wrest full control and authority from you. Abusers are "above" that now. Corruption mechanisms have advanced. Marketing is a high art and if you can be gotten to dispose of your hard-earned resources according to its dictates, how much more so your vote. If you've got the wherewithal for the necessary marketing and access to a consumer base *whose whims have been engineered to match what you are selling*, the path to power aggrandizement is clear.

But who has the vast resources necessary to market to, *and* prepare a base for being marketed to? These, whoever they are—*not* the electorate—have the power to decide what kind of government we are going to have. This government is not going to fit any description of "democracy." Resources, as they are in fact distributed, do not permit that possibility. *Who* decides the kind of government we are going to have?

16. Critical to these last two checks is an economic environment that allows for the "luxuries" of education, health, and having realistic aspirations. These are more than encouragements, they are necessary to meaningful democratic engagement. You can't expect engagement from a demos faced with such unmet *pressing* needs. (Such needs unmet long enough results in violent or self-destructive engagement.) The economic argument is presented here: "Democracy and its discontents: an alternative to elections."

The short answer is whichever subclass of the governed has the power to enforce its will on the class as a whole. Doesn't this describe an oligarchy? How big can an oligarchy be and still fall short of being a democracy? Surely, in a democracy the majority rules, right? The number of ultimate rulers *represented* in a democracy must comprise a majority of the governed—*at the very least*, a *simple* majority. Is that what we have, for example, in the U.S.? The growing consensus among those who watch these things carefully is emphatically *no.*[17]

What may be said in favor of democracy? Despite its difficulties, is it still better than the alternatives?

Since this is ultimately a philosophical, not a political, discussion, we must ask some brass tacks questions first. Is democracy *really* the best we may do, as Churchill famously insinuated? What if the voting masses just don't know enough – or are not properly motivated to know how to govern themselves well? What is wrong with being ruled by a class much smaller than a majority of the governed – an oligarchy (comprised of the materially-enabled), or an autocrat (even a scarce instance of a well-meaning and able one), or a self-adjudicated epistocracy (a species of oligarchy comprised of "the best and brightest") – provided the autocrat or oligarchs are not deficient in ability and motivation?[18]

Two moral justifications are frequently offered to explain why democracy, despite the possible wisdom and efficiency of the other two forms,[19] is better than any conceivable alternative.

The consequentialist case

The simpler, and less fundamental, argument is that rule by the governed has the best *consequences* for the governed as a whole, all things considered. The well-being and happiness of the largest number is maximized even at the necessary expense of a minority – it's major drawback. Ideally, of course, *everyone* would be made better off, but at least *enough of a majority* will, in fact, be made better-off, we are assured *if* we do genuine democracy. This predicts the result will be more stable over time than we can expect of an autocracy or oligarchy. First, because the demos collectively survives longer than "the one" or "the some" classes. The more individuals there are with an investment in a project the more will be motivated by its success. So, this theory goes, democracy *works better* – even if, as Churchill said, it is the worst form of government (presumably, he said so, because of it messiness and inefficiency), but for all the others. The balance of contentment and discontent is best insured this way. *Balance* is the aim here, not some ideal disconnected from the messy reality of human demands.[20]

17. For a longer answer, detailing the evidence, again *ibid*.
18. Again, oligarchy/plutocracy is, *in fact*, the kind of government that passes for democracy in countries such as the U.S. at this time and for some time past.
19. Nothing about democracy, *without serious qualification*, makes it morally expedient. There are historical instances of relatively benign autocrats (Marcus Aurelius) and oligarchies (the Republic of Venice at its height in the 14th–16th centuries). Thus Plato thought poorly of democracy, even as he admitted government by tyrant was the worst. The problem with unqualified democracy was that, in his experience, it is a *path* to tyranny. (I think we are seeing the same in our experience.) The trick lay in the "qualification…" What is it? We will address this as another topic. Hint: contrary to Sir Francis Galton, there is no *inherent* wisdom in crowds, not any more than in individuals.
20. As ideal governance theories such as Plato's (and, perhaps, Kant's) are often accused of.

The deontological case

The other justification is psychologically more sophisticated and plainly not consequentialist. It is based on valuing a striking characteristic humans are commonly regarded as having, almost exclusively: *rational autonomy.* Only our species and only some members of our species have this capability (to the best of our knowledge). Such beings ideally have a developed ability to reflect on their desires and values in the context of their environment and, taking this into account, deliberate about how they wish to govern themselves and others in a way that puts on display both the ability in themselves and in others to exercise the capacity. Call it: government *by* the rational *for* the rational *because* they are rational.

This view does not measure success on the basis of consequences but on *the degree to which rational autonomy is respected*. It is not disrespectful to a child to make certain important, life-altering decisions for it. This is because most small children, most of the time, do not yet have the developed ability to exercise rational autonomy (though a proper upbringing should always have nurturing that ability in view out of respect for the role that rational autonomy plays in moral training). But it would be grossly immoral, on this account, to substitute the judgment of others for that of an adult who *does* have the ability. Hence, since the principles that will set boundaries to what a fully developed rationally autonomous being will be permitted to think or do—the laws and policies governing their human environment—must be such that this being may participate in creating them out of respect for the kind of being they are. Rationally autonomous beings have a *right* to participate in the making of rules to which they will be subject, *and* other rationally autonomous beings have a *duty* to respect this right. Democracy offers the best chance of this universal respect among reason-capable agents happening. It is the best form governance may take because it provides a field of exercise for rational autonomy. The other forms of governance don't. *They are paternal, they perpetuate infantilization.*

Unlike an autocracy or an oligarchy, which preserve the *infantilization* of the bulk of the governed because this facilitates rule over them, democracy, its value conceived in the Kantian way, seeks to promote the moral development of the governed. This, *and this alone*, is what explains why democracy is the most defensible of governance forms. Its intrinsic value is not contingent on the production of the most efficient, or even the wisest, results. Its justification does not rest on how wonderful its consequences may be ulterior to promoting rationally autonomous moral development. We do not do right by children to shape them into responsible adults *because* being responsible will lead to greater things. That would be consequentialist (and, one would hope, it *would* have these consequences), but, as such, it would be highly contingent upon the eventuality of those "greater" things. *Just being responsible*—in the most loaded sense of that term—is a moral accomplishment to outshine all others. Thus, Kant believed. He did more than any other thinker to argue for the theoretical basis of this view.

The *ideal* government, from the Kantian point of view, would be no government at all for the reason that all the governed would then continuously interact in awe or recognition of each other's value as the extraordinary beings each of them are. Of course, we *don't* live in such a world. Kant is realist enough to admit that. Rather, accepting the fact that we live among devils (or that any one of us is only contingently *not* one) is more sensible to assume. Hence, we need

institutions that assume the worst about us while also fostering frameworks for the possibility we *may* rise above the worst – institutions are like trellises, so to speak, *that encourage, but do not force*, collective growth in a direction that does justice to our capabilities.

Some form of a consequentialist/pragmatic or a Kantian/deontological theory is the rational support (as opposed to "this is how we have been inculcated") for the claim that democracy is the best form government may take, given what we know of human nature. We may arrive at the conclusion that democracy is best whether from a pragmatic/consequentialist or deontological perspective. The consequentialist justification takes long term balance and stability as ends, while presuming much about the participating governed: that they are capable and willing. The deontological argument insists that there is an imperative for beings with the capabilities we have to fulfill a vision—that of *becoming* rationally autonomous. But, admitting we aren't born so, the becoming is supposed to be a life-project. It demands that, *whether the will and ability are available to us or not*, they *ought* to be. Institutions should be designed to promote this. Valuable democracy is a *project*, not a fact to be discovered or an inevitable result of any process.

Is democracy under siege globally?

Tarunabh Khaitan, an expert in constitutional design, writing a review of a recently published collection of papers by top political scientists and theorists, thinks so. It's not merely a local phenomenon.

Autocracy, oligarchy, *and* democracy have always been shaky propositions. No less than Plato believed and explained at length in his most ambitious dialogue *The Republic* why this is, namely, each assumes, in different ways, that humans come ready-made for accepting governance at all. Historical and geographical near-sightedness may lead us to believe otherwise. Here and there, one or the other may function for a spell. Democracy, in particular, or "talk" of it, has been in vogue worldwide for some time now. Even countries that aren't the least bit democratic invoke the word in their names and self-descriptions.[21] Do we know of shining examples of successful ones? *Aren't we, in fact, living in one?...*

Reason to doubt that the U.S. is, or that many Western democracies are, has been mounting. Elsewhere we have addressed an *economic* argument for this conclusion, but Khaitan summarizes here a *political* one,[22] centered on failing to circumscribe the executive:

> 8
> The phenomenon at hand is therefore a *specific* manifestation of a crisis of liberal democratic constitutionalism, when the political executive systematically seeks to dismantle vertical [constraints from the electorate], horizontal [constraints from other branches of government], and diagonal [constraints from non-governmental institutions: media, academia, interest groups, other non-elected but empowered interests] modes of

21. The "Democratic People's Republic of Korea," for instance, is what *North* Korea titles itself... In the US, "democracy" is used to stop critical discussion. It is tantamount to a virtue signal.
22. From: "Executive Aggrandizement in Established Democracies: A Crisis of Liberal Democratic Constitutionalism," Tarunabh Khaitan**,** *International Journal of Constitutional Law,* (2019).

accountability designed to check its excesses. All these forms of accountability have been eroded considerably in the paradigmatic cases of Hungary, Poland, and Turkey, and they have been under serious pressure (from the political executive) in other countries, including Israel, the United States, India, and South Africa. It is not simply a case of the political game being played a bit more aggressively than usual—*the very rules of the game are being changed*. [emphasis added]

2
This list of paradigmatic and likely cases includes polities previously assumed to be consolidated, long-established democracies, relatively homogeneous democracies, as well as affluent democracies in the Global North. This unlikely list of locations where the current crisis is unfolding demands a reconsideration of many cultural, economic, and historical assumptions about why democracies thrive (and fail). But it is the surprising fragility of *established* democracies that is the main concern of the authors of the book….

Arguably, Canada and Australia are the paradigmatically negative cases. Not because they have managed to avoid this crisis by a stroke of good luck but possibly because they have in place certain institutional mechanisms, like an independent fourth branch [the press, interest groups, the people, outside groups, etc.] and preferential voting system, which make it harder for a political executive to aggrandize itself.... France is presented as a jurisdiction whose institutions are vulnerable to such a crisis, but have somehow managed to avoid it so far..., although—in light of features like the presidential run-off which has repeatedly kept autocratic democrats from acquiring power—some might wish to place it in the same category as Canada and Australia. The implication is that while constitutional design cannot prevent such a crisis, it can act as a catalyst to make its manifestation easier or harder.

5
Can we put our finger on what exactly is ailing democracy, liberalism, and constitutionalism today? I believe a crisis of *executive accountability* [emphasis added] captures the anxieties of the authors of this book more clearly and precisely—as Elkins rightly claims, "most, if not all, of the concerns regarding constitutional democracy have to do with an executive" (at 52).

5
The political executive, wielding the state's power of the sword, is its most dangerous branch. Liberal democratic constitutionalism has long recognized this, and made various sorts of accountability demands on the political executive to keep it in check.... What the several countries analyzed in the book are witnessing is growing pressures on and the rollback of various constitutional mechanisms for ensuring executive accountability. Bermeo calls this "executive aggrandizement," "when elected executives weaken checks on executive power one by one, undertaking a series of institutional changes that hamper the power of opposition forces to challenge executive preferences."

6

The biggest threat to efficiency and accountability is posed by the most powerful institutions which are most likely to go rogue (i.e. turn against the constitutionally prescribed thicker objectives and limits). In most constitutional systems, the higher executive tends to be the most dangerous branch. Securing executive accountability is, therefore, a key facet of an efficient constitutional design, whatever the thicker normative commitments of a constitution might be. Thus, a crisis of executive accountability is, intrinsically, a crisis of constitutionalism.

…

The threat of losing the next election stops the executive from overreaching in ways that may not go down well with the electorate. On the other hand, this also encourages it to overreach in ways that will. In particular, electorates can sometimes be tempted to compromise their interest (and the interest of future generations) in continuing democratic governance over the long term for (often illusory) short-term promises. Furthermore, even for the electorate to express its will, a free and fair electoral contest is necessary—this at least needs a neutral referee and is not something one of the contestants can be trusted with. *This is why most liberal constitutions tend not to be satisfied with electoral accountability alone.* [emphasis added]

…

The second axis of accountability for the executive is *institutional* or *horizontal*.... To secure this, a constitution subjects the actions of the executive to the scrutiny of several other state institutions, including a legislature, a judiciary, and various "fourth branch" institutions that include an auditor general, an electoral commission, a human rights watchdog, an anti-corruption ombudsoffice, a chief public prosecutor, and so on.

6
These institutions are constituted very differently. Some of them are themselves elected, primarily the legislature, and are therefore most likely to be controlled or influenced by the political executive.

8
A crisis of executive accountability is a crisis of holding the ruling party to account. *Independent, unelected, state institutions are best fitted for keeping the party and the political executive in check—as long as they remain independent. This aptitude also makes them extremely attractive targets for executive subordination or party* ***capture****.* [emphasis added]

Capture

Capture is the keyword. It is what both oligarchs[23] and autocrats do. The first usually through

23. A plutocracy is an oligarchy based on a concentration of material power—money, property, etc. (Oligarchies may take other forms. A subclass of the governed may wield deep cultural/spritual power as in a *theocracy.* Examples

economic means, the second typically via political. (Trump may be the freakish coming together of both. He has political power because he has had economic power, and now more of the latter because of the former.) Capture means the arrogation of power usually through surreption and by exploiting the flaws of institutions themselves. Examples:

- *Economic:* when duly elected representatives cannot get elected, nor stay elected, without vast quantities of financial resources that only a small portion of the represented can wield.

- *Political:* remember that "*hope, belief, faith"* gap built into the very concept of proxy representation? Exploiting that gap, devilish motives can work human gullibility to great advantage.

That the flaws in the system have been tolerated for so long is not the fault of opportunists, we should by now have learned. Supposing we still believe in democracy, what are we going to *do* about capture? This will be an upcoming topic.

Resources

- This is a revision of the 2019 writeup. In the five part series from 2022-2023 "Magical Thinking About Democracy," the related topics – democracy, representation, voting, power concentration, and lottocracy – are each addressed separately.

- If you only have five minutes to prepare for this topic, I recommend this short video on "Democratic backsliding" by Carolyn Coberly.

- "On Democratic Backsliding," Nancy Bermeo, *Journal of Democracy*, 27 (January 2016): 5–19. Bermeo, an internationally recognized expert this area, pioneered the usage and spells out the implications of the expression "executive aggrandizement" in this seminal paper.

- "Why Democracy Rewards Idiots — Plato Saw It Coming 2,400 Years Ago," *Philosophy Coded*, (video).

- "Why we never learn from history | John Gray on the illusion of progress," political philosopher and scholar of the history of ideas Gray comments on recent events (video).

- The capture problem and what might be done about it is further addressed in an earlier discussion, "Democracy and its discontents: an alternative to elections," which centers on an economic argument (as opposed to the political one here) to the same dire conclusion about the future of democracy. It also introduces an alternative conception of "representation" that may better achieve the purported goals of democratic institutions.

would include: various countries in the Middle East such as Saudi Arabia, Yemen, and, in Europe, Vatican City. If they had their way, some U.S. Senators would seek to establish it here.) What makes for an oligarchy is the empowerment of a subclass smaller than—*and unrepresentative of*—the majority of the governed.

Cited in that writeup is Princeton political scientist Martin Gilens' infamous "line" chart... If your time is limited, I recommend at least watching his MIT talk on why the United States is a "democracy in name only."

- "Democracies in different parts of the world appear to be in peril. Hungary is an obvious example. Why is this? And what can be done about it? Law professor Tarun Khaitan has been studying ways that governments should be held to account." *Philosophy 24/7* interview by David Edmonds.

- "Executive Aggrandizement in Established Democracies: A Crisis of Liberal Democratic Constitutionalism," Tarunabh Khaitan**,** *International Journal of Constitutional Law,* (2019 Forthcoming).

- "Is Britain Becoming a Failed State?" Chris Patten, *Project Syndicate,* Aug 20, 2019.

- "Democracy has lost its global appeal." *Foreign Affairs* asks experts if they agree or not and to what extent with that statement. Many of these experts also speak in this video of Yale conference: "How Do Democracies Fall Apart (And Could it Happen Here)?" Description:

  > American democracy seems more endangered than at any time in living memory. Partisan polarization, both in Congress and the electorate, is at a historical high. During the 2016 presidential campaign, implicit rules of political discourse and conduct were violated, one after another. Ethnic, national, and religious groups were attacked as criminal enemies and calls were made to remove the citizenship of some native-born groups. Opposing candidates were threatened with criminal prosecution. Campaigns conjured imaginary threats to the electoral process while real threats were ignored or minimized… After the election, the sense of danger to our institutions and norms has only increased. The Yale Program on Democracy and Bright Line Watch have convened a conference that draws on the knowledge and perspectives of world-renowned scholars and journalists, with the goal of answering two basic questions: What are the critical factors that have led to the degradation or destruction of democracy in other times and places? Could these factors conspire to have the same effect in the United States today?

- "Law and Liberty. Immanuel Kant and James Madison on the Modern Polity," Günter Zöller, *Revista de Estudios Kantianos,* Vol. 3, Núm. 1 (2018): 1-13. Zöller compares and contrasts the contemporaneous political philosophies of Madison (in *The Federalist papers*) and Kant. Aligned in many ways, but differing as to focus: Madison was concerned with setting up an actual constitution informed by past failures at the hands of forces he could envision, where Kant was more concerned with an ideal state and the *ultimate* justification for having a state at all.

  We will argue that Madison's system of "checks and balances" and notion of "*electoral*

representation" is *failing*… insofar as it has guarded against emerging concentrations of power made possible by *the very size* of modern states – the U.S., in particular (but not exclusively). On *this* scale, electoral representation has been co-opted by *economic concentrations of power,* not envisioned by Madison, resulting in movement toward oligarchic (pluralistic collapse: "Republicrats" in the U.S. and "Prian" in Mexico[24]) and, ultimately, to autocratic forces (Trump). The *democratic* elements in a polity, that would, under more ideal conditions of exercise, have fostered Kant's prized *individual moral edification* have eroded from sight. A simple expression of Kant's vision is: *not just to govern people better, but to make the governed better people.* Ultimately, that is the *only* excuse for democracy.

Perhaps, the situation is ripe for consideration of Alexander Guerrero's lottocratic form of representation as a way to preserve what is valuable in democracy, since there seems to be no *electoral* republican (*i.e.,* law-governed) mechanism for reform that has not been co-opted by the economic concentrations of power... (This will be detailed in our upcoming presentation on political philosophy.) Making *the governed better people* is central to this effort to reconceptualize democracy.

- In this video presentation, "Democratic Backsliding in Mexico and Beyond," Professor Susan Stokes addresses democratic backsliding/executive aggrandizement with Mexico as an example. Together with the comments and questions addressed to her, the discussion, for me, raises the question whether "democratic backsliding" and "executive aggrandizement" are distinguishable. Typically, the terms have been used interchangeably since Nancy Bermeo first coined them, *but can one term apply where the other doesn't?* The present political situation in Mexico and the U.S. may illustrate how these two concepts may come apart. Both Mexico and the U.S. have experienced "executive aggrandizement," especially in recent times, though from opposite ends of the political spectrum. But, arguably, in the case of Mexico, this has not been a case of "democratic backsliding" for the reason that "democratic backsliding" implies there were effective democratic processes in place *prior* to the backsliding. "Executive aggrandizement" may occur with any political prior, including autocratic and oligarchic. And major income inequality, as indicated in Stokes's own talk, obviates democratic processes (see Martin Gilens, who shows this was even the case decades ago in the U.S., for example). Income inequality and "democratic backsliding" go hand in hand (assuming there was "democracy" to backslide from). Extreme inequality was and still is the case in Mexico, though real progress in reducing it has been made in recent years by the populist Morena party. Similar progress does not appear to be happening in the U.S. – quite the opposite. This is not a defense of "executive aggrandizement under certain conditions." The long-term effects of the erosion of horizontal accountability do not bode well for enduring democracy, as Stokes is right to stress. What I object to is the untoward assumption that there were genuine democratic processes, at least in the case of Mexico – if not as well in the U.S., in place *prior* to the backsliding. "Backsliding" suggests we might make

24. Short explanation of the "Prian" (a conflation of the PRI and the PAN political parties, analogous to mainstream Democrats and Republicans) in Spanish. Turn on English subtitles.

corrections to return to a better democratic place, which I don't think is possible in modern "electoral representative" democracies.

The "electoral" part is irremediably broken at the scale needed in modern nation states. Again, I argue for something much more radical, such as Alexander Guerrero's lottocratic alternative... Otherwise, we are guaranteed more of the same: cycles of fitful petty reform, with seeds of it own future subversion built-in, followed by their exploitation and inevitable backsliding... with the potential for something worse than mere backsliding... As Plato and Kant noted long ago.

Quotes from Nancy Bermeo's paper:

14
Executive aggrandizement takes place precisely where a majority that supports it is already taking root.

15
If elections were not widely seen as 'the only game in town,' politicians would not spend scarce resources trying to manipulate them.

16
The tactical challenges posed by ambiguity also emanate from *promissory* coups. Every such coup seeks to legitimate its assault on a flawed democracy by vowing to produce a better democratic regime. Moreover, promissory coups often occur with the backing of jurists, legislators, and mobilized citizens. The pledge of future elections plus the often dubious behavior of the targeted executive makes responding to these coups especially difficult.

The good news (such as it is):

17
...there has been a marked decrease in the length of time that a country with a toppled democracy stays autocratic. Moreover, the dictatorships that follow failed democracies today are, on average, less authoritarian than their predecessors.

Earlier (2019) short writeup

"Executive aggrandizement" is deforming what integrity there has ever been in the concept and practice of democracy worldwide... What is happening, why, and what, if anything, can be done? Start by listening to this podcast:

"Democracies in different parts of the world appear to be in peril. Hungary is an obvious

example. Why is this? And what can be done about it? Law professor Tarun Khaitan has been studying ways that governments should be held to account." *Philosophy 24/7* interview by David Edmonds.

In the *Republic*, Plato ordained, more or less, that democracies are prone to dissolve into tyrannies. Government framers such as James Madison and company, heavily indebted to Baron de Montesquieu, took care to put in writing something about separation of powers, hoping to forestall Plato's curse. But as Montesquieu notes democracies survive as long as they do only by balancing on a knife-edge between public and private interests. This goes against the forces of human nature.

The dissolution of former democracies has reached an advanced stage in countries such as Poland and Hungary. Among the "democracies" at risk is the United States, according to Khaitan, a specialist in institutional design.

> ...we are witnessing a crisis of executive accountability. There is a gradual erosion of all three forms of accountability-seeking mechanisms: (i) electoral or vertical accountability to the people, (ii) horizontal or institutional accountability to the political opposition, judiciary and fourth branch institutions, and (iii) diagonal or discursive accountability to the academy, media and civil society. [We identify] the precise mechanisms through which executive aggrandizement is taking place…. [and argue] that this aggrandizement is incremental and systemic, uses democratic rhetoric, and is effected by the fusion of the ruling party and the state.[25]

We addressed the subject of the decay of electoral democracy some time ago, but current global political events call for taking another look. We will review what democracy is, why some people have thought it the best design for human governing institutions, why it is inherently vulnerable to dissolution, and whether something might be done to prevent it, and what that might be.

Presentation notes

- What is a democracy?
- Is the U.S. a democracy?
- Is a democracy a desirable form of government?
- What is the biggest threat to democracy?
- What can be done to stave off this threat?

25. Tarunabh Khaitan, *op. cit.*

Extended writeup[26] for the topic hosted at
The Philosophy Club in March 2026
Accessible at Archive.org

– Victor Muñoz
Guanajuato / Seattle

26. This is a revision of the original topic presented in 2019.